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C O N F I D E N T I A L SECTION 01 OF 05 NAIROBI 000357

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TAGS: [PREL](#) [KE](#)

SUBJECT: KENYA'S ELECTORAL CRISIS - PROCESS OF DIALOGUE
MOVES SLOWLY FORWARD

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Classified By: Ambassador Michael Ranneberger for reasons 1.4 (b,d)

[1](#)1. (SBU) Summary: Kenyans welcomed the political dialogue launched by Kofi Annan on January 29 as a desperately needed step towards ending violence and achieving a resolution of the crisis. Annan has chosen Cyril Ramaphosa as his chief mediator. The visit of Ban Ki-moon provided support for the mediation process. The continuing energetic efforts of civil society, religious, and political leaders calling for peace, dialogue, and reconciliation are positive. Although the two sides are far apart in their views regarding power-sharing, developments on February 1 indicate it may be possible to achieve some early progress in the talks that, coupled with these efforts by civil society and others, could generate momentum to restore peace. Continued intensive U.S. engagement is essential to achieve a political solution to this crisis. In that regard, we remain engaged in high profile contacts with a wide range of key players and we are

continuing public diplomacy efforts. Additional resources, as requested in ref k, are needed to support U.S. efforts. End Summary.

Dialogue Launched -- Some Progress

¶2. (C) With strong support from the U.S. and others, Kofi Annan succeeded in launching a formal dialogue between President Kibaki and Raila Odinga, and their teams, on January 29. The meeting built on the initial discussion between Kibaki and Odinga that Annan arranged on January 24. A day or so before the talks convened, Annan gave both sides a paper with the proposed modalities and agenda for the dialogue (ref g). Although both sides came back with proposed revisions, Annan forcefully insisted that the talks convene even without prior agreement. In order to overcome opposition sensitivities about holding talks in a central government building, they were held at the Nairobi municipal building, with the Speaker of the Parliament in attendance.

¶3. (U) At the opening of the talks, which was covered live by the media, Kibaki, Odinga, and the Speaker made positive statements. Annan made two key points: he appealed to Kibaki and Odinga to exert leadership and act with urgency; and he said the talks should be focused on both short-term and long-term issues, with the short-term issues being resolved within 4 weeks, and the long-term issues being resolved within 1 year. &We are standing at the crossroads of history,8 Odinga said. &The fabric of society and government are torn.8 He thanked the international community and Annan as mediator for responding to the crisis

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so quickly. Odinga categorically condemned violence, emphasizing that &no grievance justifies the killing of innocent people or the exacting of revenge.8 Odinga said that those who want to scuttle the dialogue are supporting escalation of violence, but he highlighted his commitment to shun violence. &Our appeal for peace is uncompromising and unconditional,8 Odinga said. In a somewhat provocative line, Odinga said &I seek to be president of all Kenyans8 and then made clear he considered the Annan-brokered talks to be between the ODM and Party of National Unity) not between ODM and the government (i.e. making the point that he does not consider Kibaki the legitimately elected president). (Kibaki didn,t flinch.) &I will go the extra mile and leave no stone unturned8 to achieve a political solution to the crisis, Odinga pledged. Echoing Odinga, Kibaki then said the &nation is at a crossroads; this is a defining moment to take decisions to restore dignity and stability.8 &The violence and conflict hurts me deeply,8 Kibaki said. He said that all outstanding issues must be resolved peacefully through dialogue. He condemned all acts of violence and emphasized that the government will take stern measures to enforce the rule of law. He pledged to bring to justice those responsible for the murder of the Member of Parliament which had occurred the previous evening. &We are gathered here as patriots,8 Kibaki said &to take critical steps to promote healing and reconciliation.8 He pledged his full support for the dialogue. He welcomed Annan,s statement that the talks must address underlying problems as well as immediate issues. Kibaki announced that he has established a national fund to mitigate the effects of the violence, including supporting displaced persons and their eventual safe return to their homes. The Speaker of Parliament closed the opening session by making clear that the Parliament supports the political dialogue and will pass any laws necessary to implement the results. &The nation has listened with relief to you; now walk the talk,8 he concluded.

¶4. (SBU) The dialogue is being conducted by three representatives on each side, with the eminent persons facilitating. The government side includes Minister of

Justice and Constitutional Affairs Martha Karua, Mutula Kilonzo, and Professor Onger. The ODM side includes Musalia Mudavadi, William Ruto, and Sally Kosgei. The government representatives are all top lawyers and reflect the government's insistence that whatever is worked out must be within the legal and constitutional framework. The ODM side includes three of its top political figures, reflecting its contention that the dialogue must focus on political solutions, not legal frameworks. The presence of reputed hardliner Karua on the government team is matched by Ruto and Kosgei on the ODM side, since both are considered hardliners.

15. (C) Since the public opening, the teams have met a couple of times. Talks were adjourned yesterday in response to the murder of yet another Member of Parliament (ref a), but resumed today. Kofi Annan used the visit of the UNSYG today to push for early progress. According to Raila Odinga, the two sides have agreed on the modalities and agenda for the talks, and have agreed on joint efforts to end violence. Agreement on a joint plan to end violence is expected by early Monday at the latest. (CNN has reported agreement on an 18 point plan for joint efforts to end violence. Odinga confirmed that this is largely done, but indicated some fine-tuning remains to be finished). Odinga also expects agreement soon on modalities for delivery of humanitarian assistance. The atmospherics are positive. ODM sources say they are quite comfortable that this is a real venue for talking about real issues in a productive manner.⁸

16. (C) The two sides will start the discussions on power-sharing far apart. Kibaki and his team continue to insist that the ODM use the courts to challenge electoral results. They strenuously resist the idea of recounting votes, a rerun, or formation of some sort of interim government. Kibaki has privately made clear to me and others that he cannot imagine working with Odinga in a coalition

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government. Minister of Finance Amos Kimunya, one of the government's reputed hardliners,⁸ was sounding somewhat more moderate in a conversation with me on January 31. He agreed on the need for some sort of political solution, and focused on potential cooperation to work on constitutional, electoral, and land reform. He maintained that a power-sharing coalition will paralyze the government. He agreed that the government has badly mishandled its public affairs through hardline statements and by not having the President be more outspoken in condemning violence. Minister of Local Government Uhuru Kenyatta emphasized to me that Kibaki is open to lots of potential solutions, including fundamental reform of the constitution. He underscored the need to enforce law and order, but said he favors lifting the ban on demonstrations in order to create a more positive climate for dialogue. Odinga told me on January 28 that he will push for a forensic audit/re-tallying of the vote, or a rerun or, if either of those prove untenable, formation of an interim government to carry out necessary constitutional, electoral, and land reforms, with a new election to take place at some point. He made clear he could only contemplate power-sharing as part of an interim government, not as part of a full Kibaki five-year term.

Annan, Ramaphosa, and Ban Ki-moon

17. (C) Annan and the other eminent persons surprised many skeptical Kenyans by getting dialogue underway so quickly. They are, however, worried that, should he depart the process may break down and all hell break loose.⁸ We understand that Annan is bringing in Cyril Ramaphosa as his chief mediator. Annan would then plan to be present in Kenya as needed, but he has assured both sides, us, and others that he will remain intensively engaged.

¶8. (U) Coming on the heels of the UNSC discussion of the situation in Kenya, the visit of UNSYG Ban Ki-moon today served to bolster Annan,s efforts and to deliver strong messages to both sides on the need to move the dialogue process forward expeditiously and to achieve the results delineated above.

Forces for Peace and Dialogue

¶9. (SBU) The Kenyan people deserve some of the credit for getting the two sides to the table and for getting them to focus urgently on ending violence. Through civil society, religious groups, and the media, there has been a mounting chorus of voices calling for peace, truth, and justice. It is also clear from multiple sources that the reality of violence threatening to spiral out of control finally registered on Kibaki and Odinga. Finally, strong U.S. pressure on them and support for Annan helped get the dialogue launched.

¶10. (C) The Speaker of Parliament acknowledged this in a meeting with the Ambassador on February 1. He expressed great appreciation for U.S. efforts. The Speaker also discussed his efforts to build support among Members of Parliament (MPs) for peace and dialogue. A 24 member steering committee has been formed to mobilize MPs to stop violence. At least half the MPs) notwithstanding security concerns) are now fanning out to their constituencies to urge an end to violence and support for dialogue. (These parliamentary efforts have also been featured in media coverage, thus helping convey to the public a sense of broad support for the process of dialogue.) The Speaker rightly pointed out that the crux of the talks will be the question of whether or not there will be some sort of agreement to an interim government, as opposed to a deal which could still address underlying issues but leave Kibaki in place for his full term.

¶11. (C) Throughout this process, we have continued to reach
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out intensively to a wide range of key players, including civil society, religious figures, parliamentarians, influential players on the government and ODM teams, government ministers, and others. All this is aimed at supporting efforts to achieve a political solution to the ongoing crisis. These discussions have been too numerous and extensive to report in detail. My meeting with the Catholic Cardinal on January 31 reflected some of what has been discussed with others. He called the U.S. role crucial to keep the parties at the table to reach a real solution. He recounted how he has had to manage ethnic divisions even within church ranks, but also detailed his conversations with Kibaki, Odinga, the Speaker, and others to press them to engage in dialogue and to be more proactive to stop violence.

I and members of my team are in close touch with Bethel Kipligat and retired General Sumbeiywo, veterans of Somalia and Sudan negotiations respectively, who are heading a very important umbrella non-governmental group formed to work for peace and dialogue. We have offered to help fund their activities and are waiting for their proposal. We are also in close touch with, among many others, a key non-governmental organization in the Rift Valley (the epicenter of the violence) and are considering a proposal from them to foster dialogue. In addition to myself, these outreach efforts are being worked in a coordinated effort by Mission elements including USAID, public affairs, the MIST team, and the political and economic sections. Our humanitarian assistance efforts also include elements to promote dialogue and reconciliation.

Our Media Outreach

¶12. (U) At the same time, I have continued intensive media work. The extremely positive feedback we are receiving confirms the widespread view that continued intense U.S. engagement is essential to help Kenya resolve its crisis. During an interview this week on a Kikuyu vernacular station, initial calls questioned how I could urge that people not take revenge after what had happened to Kikuyus in the Rift Valley. After responding firmly to these, I challenged listeners who favored peace to make themselves heard. In the dozens of calls that then came in while I was there and later, people emphasized their commitment to ending violence.

This and my participation in numerous other radio shows have provided opportunities for frank dialogue with the Kenyan people about the current situation. During a prime-time hour-long television interview the evening of January 31, I discussed U.S. views in detail, appealed for peace, emphasized the need to give time for the political dialogue to achieve results, made clear the need to hold accountable those responsible for violence (and U.S. willingness to use visa restrictions in that regard), and expressed a positive view that Kenya will emerge from this crisis a stronger democracy and society.

Violence

¶13. (C) The initiation of the political dialogue has helped calm the violence, but the potential for it to erupt again remains very real. The calls for peace by MPs, as well as religious, civil society, and political leaders are having an impact, and the apparent agreement in the talks to work together to end violence will add momentum to efforts to stop violence. The violence which occurred in Navaisha and Nakuru last weekend (ref f) demonstrated the sinister role being played by those seeking to fuel unrest. Although precise evidence is hard to come by, many observers and a number of reports we have received indicate that influential Kikuyus are funding youth) and the Kikuyu Mungiki criminal organization) to perpetrate violence. In addition to what occurred in Navaisha and Nakuru, Kikuyus have been forcing non-Kikuyus out of Central Province (the Kikuyu heartland). Kikuyu youth and/or Mungiki have been going into some neighborhoods of Nairobi telling non-Kikuyus they must move

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out of Kikuyu neighborhoods. I have emphasized to Minister of Security Saitoti our concerns about these apparent revenge attacks and intimidation. He agreed on the serious need to stop this, but whether and how the government will do this remains to be seen. (It is worth noting that last year the government did crack down on the Mungiki when it launched a crime wave in Nairobi.) While the greatest concern at this time is these revenge activities, it is not yet clear whether key figures connected to the ODM have stopped their support for anti-Kikuyu activities in Rift Valley. In addition to violence flaring through activities funded by key individuals, tensions are such that violence will also erupt in response to specific situations, as happened after the killing of the second ODM Member of Parliament by a policeman.

¶14. (C) In addition to insisting that the government protect all Kenyans and bring to justice those responsible for perpetrating and supporting violence, we have publicly and privately made clear our intention to use appropriate authorities to restrict visas for those involved in violent activities. Given the personal, educational, and business relationships that most senior Kenyans have with the U.S., this is a threat that has already registered an impact, given calls we have received from a number of individuals. As a first step, we have identified a number of persons for inclusion in the visa lookout system.

¶15. (C) We understand that the UN Human Rights Commission has asked to send a fact-finding mission to Kenya to investigate

the violence.

Comment

¶16. (U) Although tensions remain very high, the political dialogue that is underway and the apparent agreement to work together to end violence will create momentum to restore peace. The progress in the talks will complement the impressive efforts being undertaken by civil society, religious, and political leaders. The Kenyan people will continue to make their voices heard. All of this, as well as underlying strengths of this country that I have delineated in previous messages, give me reason to be hopeful. However, only the first steps have been taken on what will be a long road to achieve a political solution and lasting peace. If we have heard one concerted message from the Kenyan people, it is that intensive U.S. engagement is vital to help Kenyans find a way forward to enable their country to emerge from this crisis a stronger democracy and society.
RANNEBERGER